IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3772 OF 2007

Devendra S. Doctor ....Applicant.
V/s
The State of Maharashtra & Anr. ....Respondents.

Applicant-in-person.

Mr.S.Bhattacharya Spl. P.P. With Mr.I.C.Satpute, Adv. For respondent No.2.

Mrs.M.H.Mhatre, APP For the State.

CORAM: A.P.DESHPANDE, J.
18/12/07

PC:

Heard the applicant-in-person and the learned Special Public Prosecutor for respondent No.2. The applicant has filed a private complaint before the Special Court under the provisions of Prevention of Corruption Act bearing Misc. Application No.619/07 on the basis of a report made by Tardeo police station. In the said complaint at an earlier point of time the applicant had moved an application and sought investigation at the hands of Central Bureau of Investigation. Allowing the application the Special Jude ordered investigation by CBI. The said order passed by the Special Judge directing investigation by CBI was questioned by filing Criminal Writ Petition No.235/07 by CBI, Anti Corruption. Allowing the petition the Division Bench of this Court by an order dated 3.9.07 set aside the order under challenge by holding that CBI cannot be

said to be within the jurisdiction of the Special Judge. After decision of the Division Bench in Writ Petition No.235/07 the applicant-original complainant yet again moved Special Judge by making a request that if not CBI let some other investigating agency make the investigation and solicited orders from the Court in that regard. The Special Judge proceeding on an incorrect assumption of factual situation carried an impression that the High Court has disposed of the complaint, passed the impugned order. The applicant pointed out that the complaint is still pending with the Special Judge and has not been disposed of by the High Court as assumed by the Special Judge. The impugned order thus is obviously passed under an incorrect assumption of incorrect fact situation. Thus the impugned order deserves to be quashed and set aside. The learned Special Counsel appearing for CBI does not dispute factual position that the complaint is still pending on the file of Special Judge. In this view of the matter the impugned order dated 31.10.07 is quashed and set aside. The application moved by the applicant shall stand revived and the Special Judge is directed to pass appropriate orders in accordance with law on the said application. Rule made absolute in above terms.

18.12.07